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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,936	11/17/1999	GUST H. BARDY	90980054-1	5202
24737	7590	07/01/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			DROESCH, KRISTEN L	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			3762	
DATE MAILED: 07/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	S F
	09/441,936	BARDY ET AL.	
	Examiner	Art Unit	
	Kristen Drosch	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 March 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-12, 15-17 and 20-23 is/are allowed.
- 6) Claim(s) 13, 14, 18 and 19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 November 1999 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13, and 18-19 are rejected under 35 U.S.C. 103(a) as obvious over Druz (3,442,269) in view of Langer et al. (4,202,340). Druz shows a method of receiving a cardiac signal from a patient (Col. 3, line 56-Col. 4, line 9; Col. 6, lines 17-22); receiving a shock command from an operator (Col. 7, lines 1-12) and shocking the patient with a portable shock generator (Col. 2, lines 63-64) in response to the shock command if the patient is experiencing atrial fibrillation. Although Druz fails to show the step of determining from the signal with a portable analyzer whether the patient is experiencing atrial fibrillation, attention is directed to Langer et al. which shows a external defibrillator that can be used for atrial defibrillation (Col. 1, lines 32-44). Langer et al. teaches that it is desirable for an external defibrillator to detect arrhythmias in place of a trained operator interpreting an ECG from an oscilloscope tracing. Langer et al. further teaches that a external defibrillator could be built with an interlock to its discharge switch so that a shock can delivered only after the presence of fibrillation has been confirmed by a detector, thus allowing safe use by an untrained operator (Col. 1, lines 45-61). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the method of Druz with the step of determining from the signal

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with a portable analyzer whether the patient is experiencing atrial fibrillation as Langer et al. teaches in order to allow safe use of an external defibrillator by an untrained operator.

Regarding claim 18, although Druz fails to specifically show determining from the cardiac signal with the portable analyzer whether the atrial fibrillation terminates after shocking the patient, Druz shows it is desirable to monitor the patient's heart before and after defibrillation (Col. 2, lines 1-11). It would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize the method of Druz, as modified by the method of detecting fibrillation with a portable analyzer as Langer et al teaches to further determine whether the atrial fibrillation terminates after shocking the patient, since this would also allow safe use of an external defibrillator by an untrained operator in addition to ensuring effective treatment of the patient.

With respect to claim 19, Druz shows shocking the patient during a rising edge of an R wave during the cardiac signal (Col. 6, lines 32-62)

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Druz and Langer et al. as applied to claim 13, and further in view of Ferrari (5,824,033). Druz and Langer et al. are as explained before. Druz and Langer et al. show applying defibrillator pads to the patient (Col. 5, lines 53-57) and shocking the patient via the pads. Although Druz and Langer et al. fail to show receiving the cardiac signal via the defibrillator pads but shows receiving the cardiac electric signal by separate electrodes (Col. 6, lines 17-22), attention is directed to Ferrari who shows defibrillator pads that are also used for receiving cardiac electrical signals (Col. 8, lines 51). It would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize defibrillation pads capable of receiving cardiac electrical signals as Ferarri teaches in the method of

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Druz and Langer et al., since it is well known in the art to utilize combination defibrillator/ECG pads as a means for limiting the number of electrodes applied to the patient and the number of connections to the external defibrillator.

Allowable Subject Matter

4. Claims 1-12, 15-17, and 20-23 allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 13-14, and 18-19 have been considered but are moot in view of the new ground(s) of rejection

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Drosesch whose telephone number is 703-605-1185. The examiner can normally be reached on 10:30-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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